

AMENDMENTS TO THE DRAWINGS

The attached sheet of drawings includes changes to Figure 1. This sheet, which includes Figure 1, replaces the original sheet including Figure 1.

Attachment: Replacement Sheet (1)

REMARKS

Favorable reconsideration of this application, in light of the preceding amendments and following remarks, is respectfully requested.

Claims 1-5 are pending in this application. Claim 1 is amended and no claims have been cancelled. Claim 1 is the sole independent claim.

Priority

The Office Action stated that receipt is acknowledged of a certified copy of a Swedish application, and that, if this copy is being filed to obtain the benefits of a foreign filing date, Applicants should also file a claim for such priority in the **oath or declaration or in an application data sheet**; and appropriate correction is required.

Applicants submit herewith a Supplemental Application Data Sheet, which correctly identifies all foreign priority documents by application number and filing date.

Specification

The disclosure has been objected to due to the following informalities: several section headings are missing in the application; and the summary or any part of it should not be attributed to a claim as on page 3, line 13. The Examiner stated that appropriate correction is required.

Applicants have amended the specification to conform with the Examiner's requirements. Therefore, Applicants respectfully request that the objection to the specification be withdrawn.

Drawings

The drawings have been objected to under 37 C.F.R. 1.83(a). The Examiner stated that the drawings must show every feature of the invention specified in the claims; that therefore, the “binder 14” must be shown or the feature canceled from the claims; and that no new matter should be entered.

Applicants submit herewith one (1) Replacement Sheet, which shows the feature “binder 14”. Therefore, Applicants respectfully request that the objection to the drawings be withdrawn.

Rejections under 35 U.S.C. § 103(a)

Fujioka et al.

Claims 1-5 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Japanese Patent Publication No. 11101733 to Fujioka et al.. Applicants respectfully traverse this rejection for the reasons detailed below.

The Examiner states that claims 1-5 are rejected because: a) Fujioka et al. teaches of an optical reference standard 2 comprising an optical reference material such as food and agricultural products placed into an optical reference standard to provide a reference standard with desired spectral, mechanical and temporal characteristics; b) Fujioka does not explicitly teach of a reference material including a binder and a cereal formed into a matrix placed into an optical reference standard to provide a reference standard with desired spectral, mechanical and temporal characteristics; c) however, in view of Fujioka’s teaching of a reference standard to hold food, and since it is well-known in the art that cereal and gelatin are food items, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have a binder and a cereal, which are food items, formed into a matrix, or any other combination of food

items, such as oats, barley and wheat with various types of binding agents, to be placed into an optical reference standard to provide a reference standard with desired spectral, mechanical and temporal characteristics. Applicants respectfully disagree.

Fujioka relates to a container for optical measurements, which may hold foodstuff or agricultural products. However, Fujioka does not disclose an optical reference material including a binder and a cereal formed into a matrix as recited in claim 1. The Examiner claims that, since in the present application, example substances, e.g., gelatin and oatmeal, are food products, claim 1 is rendered obvious because Fujioka mentions food products (see, e.g., paragraph 6, also discussing the stability). Applicants respectfully submit that there is no incentive in Fujioka which would lead one of ordinary skill in the art to make that conclusion.

The combination of a cereal and a binder as in claim 1 allows for a reference standard with enhanced mechanical and temporal stability. Instead, Fujioka solves the problem of foodstuff instability by properly sealing the container. Applicants respectfully submit that one of ordinary skill in the art would not be lead to use the combination of a cereal and a binder as recited in claim 1 from the teachings of Fujioka, because the solution to the problem of foodstuff instability has been solved by a proper seal.

Further, Fujioka teaches a mechanism by which a proper seal of the sample container is made in order to preserve the contents for a longer period. In this manner, a reference standard consisting of the material to be analyzed is created, different from the artificial reference standard of claim 1, which is created to have optical properties (e.g., absorption and scattering) similar to the material to be analyzed. Applicants respectfully submit that one of ordinary skill in the art would understand that the term “reference standard” in the context of the present application would be a material with optical properties comparable to the sample to be analyzed. Therefore, Fujioka does not teach or suggest “an optical reference material including a binder

and a cereal formed into a matrix to fixedly hold an amount of water, the reference material being constituted with the binder, the cereal and the water present in amounts to provide the reference standard with desired spectral, mechanical and temporal characteristics to imitate those of a product to be analyzed by the analysis treatment” as recited in claim 1.

The Applicants, therefore, respectfully request that the rejection to Claims 1-5 under 35 U.S.C. § 103(a) be withdrawn.

Claims 2-5, dependent on independent claim 1, are patentable for the reasons stated above with respect to claim 1 as well as for their own merits.

Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection to independent claim 1 and all claims dependent thereon.

CONCLUSION

In view of the above remarks and amendments, the Applicants respectfully submit that each of the pending objections and rejections has been addressed and overcome, placing the present application in condition for allowance. A notice to that effect is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to contact the undersigned.

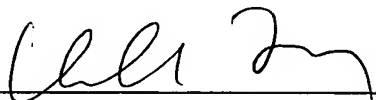
Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Erin G. Hoffman, Reg. No. 57,752, at the telephone number of the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

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By



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